

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

<p>_____,</p> <p>Plaintiff(s),</p> <p>vs.</p> <p>_____,</p> <p>Defendant(s).</p>	<p>Case No.</p>
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DRAFT FORM OF FINAL PRETRIAL ORDER – JURY TRIAL

This matter having come before the Court on _____, at the final pretrial conference held before Scott W. Skavdahl, United States District Judge, pursuant to Fed. R. Civ. P. 16; and _____, having appeared as counsel for Plaintiff(s) and _____, having appeared as counsel for Defendant(s); the following action was taken:

(a) *JURISDICTION AND PARTIES*: This is an action for _____. The Court has jurisdiction under ____ U.S.C. § _____. Jurisdiction and venue are [disputed][not disputed].

(b) *GENERAL NATURE OF THE CLAIMS OF THE PARTIES*:

1. Plaintiff claims (set out summary without detail)
2. Defendant claims (set out summary without detail)
3. All other parties' claims (same type of statement where third parties are involved).

(c) *UNCONTROVERTED FACTS*: The following facts are established by admissions in the pleadings or by stipulation of counsel prior to the pretrial conference: (Set out uncontroverted

facts, including admitted jurisdictional facts and all other significant facts to which there is no genuine issue.)

(d) *CONTESTED ISSUES OF FACT*: The contested issues of fact remaining for decisions are: (Set out).

(e) *CONTESTED ISSUES OF LAW*: The contested issues of law in addition to those implicit in the foregoing issues of fact are: (set out). (Or) There are no special issues of law reserved other than those implicit in the foregoing issues of fact.

(f) *EXHIBITS*:

There are identified and offered into evidence the parties' respective exhibits as set forth in the following format and **attached as appendices** hereto.

PLAINTIFF(S) EX. NO.	DESCRIPTION	FILE NAME	OBJECTIONS (CITE FED.R.EVID)	CATEGORY A, B, C	OFFERED	ADMIT/NOT ADMITTED (A)-(NA)*
		(e.g. *****.pdf)				
		(e.g. *****.jpeg)				

DEFENDANT(S) EX. NO.	DESCRIPTION	FILE NAME	OBJECTIONS (CITE FED.R.EVID)	CATEGORY A, B, C	OFFERED	ADMIT/NOT ADMITTED (A)-(NA)*
		(e.g. *****.pdf)				
		(e.g. *****.jpeg)				

* This column is for use by the trial judge at trial. Nothing should be entered in this column by the parties.

1. The following categories are the objections to exhibits:

Category A. These exhibits are admissible on motion by any party and will

be available for use by any party at any stage of the proceedings without further proof or objection.

Category B. These exhibits are objected to on grounds *other than* foundation, identification, or authenticity. This category should be used for objections such as hearsay or relevance.

Category C. These exhibits are objected to on grounds of foundation, identification, or authenticity. This category should not be used for other grounds, such as hearsay or relevance. Failure to indicate objections to foundation shall be deemed to be a waiver of objections as to foundation for listed exhibits. Any party establishing foundation over objection may move for attorney fees and costs necessary to establish the foundation.

2. The parties reserve the right to submit any exhibits listed by the opposing party, and any exhibits necessary for rebuttal.
3. Before trial, each party must supply the Court with one (1) hard copy and one (1) electronic/digital copy of all exhibits to be used at trial. The hard copies of exhibits should be placed in a ringed binder with a copy of the exhibit list at the front and with each exhibit tabbed.
4. **Five (5) business days** prior to trial, each party will furnish to the court reporter at anne@professionalreporting.com, an electronic list of all exhibits to be offered, an electronic list of names for all anticipated witnesses, and electronic keyword indices (if available) for all anticipated expert witnesses. Requests for realtime and

daily copy or other services should be made at least seven (7) business days prior to trial.

(g) *DEPOSITIONS*: Any party proposing to offer all or any portion of a deposition shall notify opposing counsel at least **ten (10) business days** before trial of the offers to be made (unless the necessity for using the deposition develops unavoidably thereafter). If objection is to be made, or if additional portions of a deposition are to be requested, opposing counsel will notify offering counsel at least five (5) business days before trial of such objections or requests. If any differences cannot be resolved, the Court must be notified in writing of such differences at least three (3) business days before trial.

(h) *DISCOVERY*: Discovery has been completed. (Or) Discovery is to be completed by _____. (Or) Further Discovery is limited to _____. (Or) The following provisions were made for discovery (Specify).

(i) *WITNESSES*: The parties intend to call the following witnesses at trial:

1. Plaintiff(s) will call, or will have available at trial, the following witnesses: [list name, substance of testimony, whether any party objects to the witness, and the nature and grounds of any objections];

A.

B

Plaintiff(s) may call the following witnesses: [list name, substance of testimony, whether any party objects to the witness, and the nature and grounds of any objections];

A.

B.

2. Defendant(s) will call, or will have available at the trial the following witnesses:
[list name, substance of testimony, whether any party objects to the witness, and
the nature and grounds of any objections];

A.

B.

Defendant(s) may call the following witnesses: [list name, substance of testimony,
whether any party objects to the witness, and the nature and grounds of any
objections];

A.

B.

3. The parties reserve the right to call any witness listed by the opposing party, and
any witnesses required for rebuttal. A party listing a will call witness guarantees
his or her presence at trial.

4. No later than **seven (7) days** before trial, counsel shall provide the Court with
an estimate of time on the stand for each witness to be called. During trial, counsel
shall provide opposing counsel with a list of witnesses the party intends to call the
following day.

(j) *PROPOSED VOIR DIRE QUESTIONS, JURY INSTRUCTIONS, VERDICT FORM,
AND JOINT STATEMENT:* It is directed that proposed voir dire questions, requests for

instructions, and proposed verdict forms be submitted to the Court **seven (7) days** before trial, subject to the right of counsel to supplement such requests during the course of trial on matters that cannot be reasonably anticipated. The Court will provide stock instructions for this case. If the parties would like to request instructions that differ from the stock instructions, they may provide them with their substantive instructions. Requests for instructions are to include **three sets** (each with citations to authority -- no signature block on the bottom of each instruction is necessary). Set A shall include instructions stipulated to and agreed upon by both parties; Set B shall include Plaintiff's proposed instructions, to which Defendant objects; and Set C shall include Defendant's proposed instructions, to which Plaintiff objects. Proposed jury instructions and special verdict forms shall be submitted in writing and filed, and also sent as an attachment via email directly to Carman's Chambers, wyojudgemlc@wyd.uscourts.gov, formatted for Wordperfect or Word. At the same time as the filing of the jury instructions, the parties shall file a joint statement setting forth briefly and simply, in a noncontentious manner, the background of the case and the claims and defenses being asserted. The parties should make every effort to agree upon the language for the statement. To the extent the parties cannot agree, they should use the following format: "Plaintiff contends; Defendant contends"

(k) *JURY PANEL*: The Court shall impanel the jury in the following manner:

1. Fourteen (14) jurors shall be called to the jury box for voir dire examination;
2. If any juror is excused for cause, another juror will be called;
3. After the panel of fourteen (14) jurors is accepted for cause, counsel, starting with the Plaintiff, shall alternately write on a form provided by the Clerk of Court their peremptory challenges. Each side shall receive and exercise up to three (3) peremptory challenges. The first eight (8) jurors called and not challenged shall constitute the jury.

(l) *AMENDMENTS TO PLEADINGS*: There were no requests to amend the pleadings.

(Or) The following order was made with regard to amendments to the pleadings: (Set Out)

(m) *OTHER MATTERS*: The following additional matters were determined to aid in the disposition of the action:

1. Each side will be given thirty (30) minutes to conduct their own voir dire of the jury panel following voir dire by the Court.
2. Pending Motions:

(n) *MODIFICATIONS-INTERPRETATION*: This pretrial order has been formulated after conference at which counsel for the respective parties have appeared. Reasonable opportunity has been afforded counsel for corrections or additions prior to signing by the Court. Hereafter, this order will control the course of the trial and may not be amended except by consent of the parties and the Court, or by order of the Court to prevent manifest injustice. The pleadings will be deemed merged herein. In the event of ambiguity in any provision of this order, reference may be made to the record of this conference to the extent reported by stenographic notes, and to the pleadings.

(o) *TRIAL SETTING*: The case is set for trial with a jury on _____, starting at

9:00 a.m. in Albuquerque, New Mexico.

(p) *MEMORANDUM*: Estimated length of trial is _____. Possibility of settlement of this case is considered [good] [fair] [poor].

Dated this _____ day of _____, 20 ____.

SCOTT W. SKAVDAHL
UNITED STATES DISTRICT JUDGE

Approved as to form:

Counsel for Plaintiff(s)

Counsel for Defendant(s)